

## REMARKS

Claims 1-4 were pending and remain so. Independent claims 1-4 have been amended to further define the claimed invention. The Applicant respectfully requests reconsideration and allowance of this application in light of the foregoing amendments and the following remarks.

### **I. Response to Examiner Interview Summary**

Applicant thanks the Examiner for the courtesies extended in conducting a telephone interview on August 5, 2009. The Examiner indicated in the interview summary dated August 17, 2009 that, upon Applicant's explanation that the feature "maintaining in a separate account up to one single share of each investment in which there is at least one trading order for a fractional share of said each investment" is in fact supported by Paragraph 108 of the specification, it is understood that the claimed invention can hold the remaining fractional share of a stock in a separate account. Applicant has no further comment on the substance of the interview as set forth by the Examiner and, thus, respectfully submits that no further statement need be filed with the Office.<sup>1</sup>

### **II. Claims Satisfy 35 U.S.C. § 112, ¶ 1**

The Examiner rejected claims 1-4 under 35 U.S.C. § 112, ¶ 1 as failing to comply with the written description requirement. In the office action, the Examiner indicates that the feature "maintaining in a separate account up to one single share of each investment in which there is at least one trading order for a fractional share of said each investment" is not supported by the specification.

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<sup>1</sup> It is pointed out that, in addition to the undersigned, Michael Fortkort, Esq. also participated in the

In response, the Applicant notes that the specification supports this feature at paragraph [0108] of the specification, which states:<sup>2</sup>

[0108] The computer-based system of the present invention permits, without incurring any additional costs, investors to purchase or sell small--and even fractional--units of shares. This is because, according to one embodiment of the computer-based system of the present invention, the system aggregates orders provided by its investors, executes the aggregated transactions and then allocates the acquired (or cash for sold) shares back to the accounts of the investors. (Since transactions outside of the system must still be made in full share amounts, it is possible that a fractional share amount could remain after the allocations. For example,  $7\frac{1}{2}$  shares of a stock in total could be allocated to 15 different accounts--with  $\frac{1}{2}$  share allocated to each. To effect this transaction, if the shares are acquired from outside the system, the broker operating the system would acquire 8 shares. The remaining  $\frac{1}{2}$  share would be owned by the broker or a third party worker with the broker operating the system and held for allocation as needed in subsequent rounds of trading.) Consequently, an investor could have \$150 per week invested in 50 stocks, receiving an allocation to his account of fractional shares. Each subsequent week, the investor would have added to his account additional fractional interests in each of these stocks. Over the course of a year with, for example, about \$7,800 invested, the investor would have full and fractional shares in his account (if the average stock price were \$30, the investor would have on average a little over 5 shares--5.2 shares to be precise--in each of 50 stocks). The system of the present invention permits that full investment each week (or any desired period) in a diversified portfolio, the transactions in small share interests, and the transactions in fractional interests (none of which is possible on a cost-effective basis with ordinary brokerage). According to another embodiment of the computer-based system of the present invention, the system could be maintained by a broker so that the orders of the investors are executed by the broker or a third party as principal, with the broker maintaining a position in the securities, and thereby, in essence, aggregating the orders of the investors as contra-side transactions of the broker. Periodically, the broker could then execute an off-setting trade in the market place if the broker did not wish to carry the position.

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interview on behalf of Applicant.

Furthermore, applicant has amended claims 1-4 to further define this aspect of the claimed invention. Accordingly, the Applicant respectfully submits that the specification supports the feature at issue. Reconsideration and withdrawal of the rejection of these claims is therefore respectfully requested.

### **III. Claims Satisfy 35 U.S.C. § 101**

The Examiner rejected claims 2 and 3 under 35 U.S.C. § 101 because the claimed invention was directed to non-statutory subject matter. The Applicant has amended claims 2-3 to recite that certain functions are performed with a computer. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection of these claims.

### **IV. Claims Are Patentable Over Champion et al., Perham, Dibben, Newberry and Pender**

The Examiner rejected claims 1-7, 10-11, 14-15 and 18-19 under 35 U.S.C. §103(a) as being unpatentable over by U.S. Patent No. 5,123,936 to Champion et al. [hereinafter “Champion et al.”], in view of an article by John C. Perham [hereinafter “Perham”], further in view of an article by Margaret Dibben [hereinafter “Dibben”], further in view of an article by Jon Newberry [hereinafter “Newberry”] and further in view of an article by Kathleen Pender [hereinafter “Pender”].

The Applicant notes that claims 1-4 were the only claims pending prior to this office action (see Office Action Summary page); hence this rejection should have addressed only claims 1-4. The Applicant notes that the Examiner did only direct his comments towards claims 1-4, therefore the Applicant assumes the citation of other claims was merely a typographical error and will respond as if the rejection was directed to claims 1-4.

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<sup>2</sup> This corresponds to paragraph 0120 of the *published* application.

The Examiner indicated that the aforementioned references fail to disclose the feature “maintaining in a separate account up to one single share of each investment in which there is at least one trading order for a fractional share of said each investment”, and that the Examiner had not given any patentable weight to this feature because the Examiner could not find support for this feature in the specification.

The Applicant has since shown the Examiner that this feature is in fact supported by the specification.

As the Examiner has indicated previously that this combination of references fails to result in the claimed invention, reconsideration and withdrawal of the rejection of these claims is therefore respectfully requested.

**CONCLUSION**

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of objection and rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 11-0600. The Examiner is invited to contact the undersigned to discuss any matter regarding this application.

Respectfully submitted,

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